

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: **Dolph**

Serial No.: **10/803,631**

Filed: **March 18, 2004**

For: **Targeted Marketing Overlays for  
Digital Video Recorders**

§ Group Art Unit: **2621**

§

§ Examiner: **Tekle, Daniel T.**

§

§ Confirmation No.: **5810**

§

§ Attorney Docket No.: **AUS920040046US1**

**35525**

PATENT TRADEMARK OFFICE  
CUSTOMER NUMBER

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**RESPONSE TO NOTICE OF NON-COMPLIANT APPEAL BRIEF**

Sir:

A Notice of Non-Compliant Appeal Brief was received by Appellant stating that the Appeal Brief filed on June 19, 2008 is considered non-compliant allegedly because the brief does not contain a concise explanation of the subject matter defined in the claims involved in the appeal.

This brief is in furtherance of Appeal Brief filed in this case on June 19, 2008 and the Notice of Non-Compliant Appeal Brief dated September 8, 2008.

No fees are believed to be required. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 09-0447. No extension of time is believed to be necessary. If, however, an extension of time is required, the extension is requested, and I authorize the Commissioner to charge any fees for this extension to IBM Corporation Deposit Account No. 09-0447.

## **REMARKS**

In the Notification of Non-Compliant Appeal Brief, the Appeal Brief filed on June 19, 2008, was held defective allegedly because the brief did not contain a concise explanation of the subject matter defined in the claims involved in the appeal. Appellants have amended the subject matter section of the appeal brief with claim headings to show that all independent claims have been addressed. Furthermore, after consultation with the Examiner, it was noted that page 13 of the Appeal Brief was missing.

In order to address the Examiner's concerns, a Supplemental Appeal Brief is submitted herewith, which is amended to include the substantive text from the missing page 13 of the Appeal Brief filed on June 19, 2008. It is respectfully submitted that the Supplemental Appeal Brief filed herewith is in compliance with 37 C.F.R. § 41.37. Appellant respectfully requests that the Supplemental Appeal Brief be entered.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: October 7, 2008

Respectfully submitted,

/Rudolf O. Siegesmund/

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